

1 RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

2 E. CARMEN RAMIREZ
3 Trial Attorney, Tax Division
U.S. Department of Justice
4 P.O. Box 683
Washington, D.C. 20044
5 202-616-2885 (v)
202-307-0054 (f)
6 E.Carmen.Ramirez@usdoj.gov
western.taxcivil@usdoj.gov
7

8 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA
9

10 UNITED STATES OF AMERICA,)

11 Plaintiff,)

12 v.)

13 JEFFREY A. MARTINEZ, individually,)
14 and as Trustee of the Martinez Family Trust;)
DOLORES M. MARTINEZ, individually and)
15 as Trustee for the Martinez Family Trust;)
THE MARTINEZ FAMILY TRUST;)
16 MARTINEZ & ASSOCIATES, INC.)
(NV20041370692); MARTINEZ &)
17 ASSOCIATES INC. (NV20181033912);)
SIERRA MORTGAGE CORPORATION;)
18 FIDELITY NATIONAL TITLE; CHASE)
MORTGAGE COMPANY; JP MORGAN)
19 CHASE BANK NATIONAL)
ASSOCIATION; NEVADA)
20 MORTGAGEE ASSISTANCE COMPANY,)
LLC; THE COOPER CASTLE LAW FIRM,)
21 LLP; RHODES RANCH ASSOCIATION; and)
REPUBLIC SILVER STATE INC., DBA,)
22 REPUBLIC SERVICES,)

23 Defendants.)
24
25

Case No.: 2:19-cv-1986-GMN-DJA

**JOINT MOTION TO APPROVE
STIPULATION BY PLAINTIFF THE
UNITED STATES AND
DEFENDANTS CHASE
MORTGAGE COMPANY AND JP
MORGAN CHASE BANK
NATIONAL ASSOCIATION**

1 Plaintiff, the United States of America, and defendants JP Morgan Chase Bank N.A. and
2 Chase Mortgage Company (together, “Chase”, with the United States, the “Stipulating Parties”)
3 have reached a stipulation regarding their respective claims in this matter, and respectfully seek
4 the Court’s approval of their stipulation. The stipulation is attached as Exhibit 1 hereto.

5 **MEMORANDUM OF POINTS AND AUTHORITIES**

6 1. This stipulation concerns the real property located at as 262 Cliff Valley Drive,
7 Las Vegas, Nevada 89148 (the “Subject Property”). The Subject Property is legally described
8 as:

9 **Parcel 1:**

10 Lot 169 in Block 5 of Amended Final Map of Rhodes Ranch Phase 1, as shown by
11 map thereof on file in Book 82 of Plats, Page 48 in the Office of the County
Recorder of Clark County, Nevada.

12 **Parcel 2:**

13 A non-exclusive easement of use access and enjoyment in and to the “Common
14 Area” as further defined in that Certain Covenants, Conditions and Restrictions for
Rhodes Ranch, a Planned Community, recorded August 13, 1997, in Book 970813
as Document No. 01479, of Official Records, Clark County, Nevada.

15 Assessor’s Parcel No.: 176-08-310-113.

16 2. The United States asserts an interest in the Subject Property pursuant to federal tax
17 liens it holds against defendants Jeffrey A. and Dolores M. Martinez, and against a business
18 associated with the couple, Martinez & Associates, Inc. (Nevada Business ID NV20041370692)
19 (“Martinez & Associates I”). The United States also named a second corporation as a defendant,
20 Martinez & Associates, Inc. (Nevada Business ID NV20181033912) (“Martinez & Associates
21 II”). Martinez & Associates II is believed to be a successor to Martinez & Associates I. The tax
22 liabilities at issue are described in more detail in the United States’ Complaint in this matter.
23 (See Dkt. 1 at 9-18). As discussed in the Complaint, the IRS has filed Notices of Federal Tax
24 Liens concerning these liabilities with the Clark County recorder on various dates. (*Id.* at 6-7).

1 3. The United States seeks money judgments against Mr. and Ms. Martinez and their
2 businesses. The government also seeks an order permitting it to foreclose its tax liens against the
3 Subject Property, and to sell the Subject Property to help satisfy the judgment. Pursuant to 26
4 U.S.C. § 7403(b), the government has therefore named as defendants Chase and others who may
5 claim an interest in the property, so that the Court may adjudicate their claims to the property (if
6 any), and determine if and in what order they should receive payments from the sales proceeds, if
7 the United States prevails against Mr. and Ms. Martinez and their business and obtains an order
8 permitting sale.

9 4. Chase asserts an interest in the Subject Property based on a deed of trust and
10 underlying note that Mr. and Ms. Martinez signed on or around July 27, 2000 (the “Deed of
11 Trust”). In connection with its claim, Chase represents the following:

- 12 a. The initial lender and beneficiary under the Deed of Trust was defendant Sierra
13 Mortgage Corporation. The initial trustee was defendant Fidelity National Title,
14 which has disclaimed any interest in the Subject Property and has been dismissed
15 from the suit. (*See* Dkt. 15).
- 16 b. The Deed of Trust was subsequently assigned to other entities, and, ultimately, to
17 Chase. Chase received the Deed of Trust via an assignment from Flagstar Bank,
18 FSB. The assignment was recorded on May 11, 2001. A copy of the assignment
19 is attached as Exhibit A.
- 20 c. In 2015, Chase determined that there was a gap in the recorded chain of
21 assignments between the initial beneficiary, Sierra Mortgage Corporation, and
22 Flagstar Bank, FSB, the entity that had assigned the Deed of Trust to Chase.
23 After a diligent search and review of the information from the original collateral
24 file, which Chase held in its possession, Chase executed an Affidavit of Missing
25 or Incomplete Assignment indicating that one or more assignments may be

1 missing within that gap. A copy of the affidavit is attached to this stipulation as
2 Exhibit B.

- 3 d. Chase further represents that the loan underlying the Deed of Trust remains
4 outstanding, and that the Deed of Trust remains a valid lien on the Subject
5 Property.

6 5. In the interests of resolving disputes as to lien priority without motions practice,
7 the Stipulating Parties have reached an agreement, attached as Exhibit 1, as to the priority of
8 their claims to the property vis-à-vis each other. If the United States prevails on its claims
9 against Mr. and Ms. Martinez and their business and the Court permits the United States to sell
10 the property, the agreement provides a method for allocating the sales proceeds as between the
11 United States and Chase, without prejudice to claims that other parties may make on the
12 proceeds.

13 //

14 //

15 //

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22 //

1 WHEREFORE, plaintiff the United States of America and defendants JP Morgan Chase
2 Bank N.A. and Chase Mortgage Company respectfully ask that the Court approve the stipulation
3 attached as Exhibit 1.

4 Dated this 20th day of February 2020.

5
6
7 RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney
8 General

9 /s/ E. Carmen Ramirez

10 E. CARMEN RAMIREZ

11 Trial Attorney, Tax Division
U.S. Department of Justice
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14 western.taxcivil@usdoj.gov

15 *Counsel for the United States*

/s/ Justin Grim

JUSTIN GRIM
Nevada Bar No. 12588

McCalla Raymer Leibert Pierce, LLP
1635 Village Center Circle, Suite 130
Las Vegas, NV 89134
(702) 425-7267
Justin.Grim@mccalla.com

*Counsel for JP Morgan Chase Bank, N.A. and
Chase Mortgage*

16 **IT IS SO ORDERED.**

17 Dated this 25 day of February, 2020.

18
19
20 
Gloria M. Navarro, District Judge
UNITED STATES DISTRICT COURT

1 **CERTIFICATE OF SERVICE**

2 IT IS HEREBY CERTIFIED that service of the foregoing is made this 20th day of
3 February, 2020, via the Court's ECF system to all current parties who have appeared
4 electronically. In an abundance of caution, the United States is sending this motion to the
5 following persons via U.S. Mail:

6 Jeffrey Martinez
7 262 Cliff Valley Dr.
8 Las Vegas, NV 89148

9 Dolores Martinez
10 262 Cliff Valley Dr.
11 Las Vegas, NV 89148

12
13
14 /s/ E. Carmen Ramirez
15 E. CARMEN RAMIREZ
16 Trial Attorney, Tax Division
17 U.S. Department of Justice
18
19
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21
22
23
24
25

EXHIBIT 1

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

E. CARMEN RAMIREZ
Trial Attorney, Tax Division
U.S. Department of Justice
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JEFFREY A. MARTINEZ, individually,
and as Trustee of the Martinez Family Trust;
DOLORES M. MARTINEZ, individually and
as Trustee for the Martinez Family Trust;
THE MARTINEZ FAMILY TRUST;
MARTINEZ & ASSOCIATES, INC.
(NV20041370692); MARTINEZ &
ASSOCIATES INC. (NV20181033912);
SIERRA MORTGAGE CORPORATION;
FIDELITY NATIONAL TITLE; CHASE
MORTGAGE COMPANY; JP MORGAN
CHASE BANK NATIONAL
ASSOCIATION; NEVADA
MORTGAGEE ASSISTANCE COMPANY,
LLC; THE COOPER CASTLE LAW FIRM,
LLP; RHODES RANCH ASSOCIATION; and
REPUBLIC SILVER STATE INC., DBA,
REPUBLIC SERVICES,

Defendants.

Case No.: 2:19-cv-1986-GMN-DJA

**STIPULATION AS TO LIEN
PRIORITY BETWEEN PLAINTIFF
THE UNITED STATES AND
DEFENDANTS CHASE
MORTGAGE COMPANY, AND JP
MORGAN CHASE BANK
NATIONAL ASSOCIATION**

1 Plaintiff, the United States of America, and defendants JP Morgan Chase Bank N.A. and
2 Chase Mortgage Company (together, “Chase”, with the United States, the “Stipulating Parties”),
3 hereby stipulate as follows:

4 **BACKGROUND**

5 1. This stipulation concerns the real property located at as 262 Cliff Valley Drive,
6 Las Vegas, Nevada 89148 (the “Subject Property”). The Subject Property is legally described
7 as:

8 Parcel 1:

9 Lot 169 in Block 5 of Amended Final Map of Rhodes Ranch Phase 1, as shown by
10 map thereof on file in Book 82 of Plats, Page 48 in the Office of the County
Recorder of Clark County, Nevada.

11 Parcel 2:

12 A non-exclusive easement of use access and enjoyment in and to the “Common
13 Area” as further defined in that Certain Covenants, Conditions and Restrictions for
Rhodes Ranch, a Planned Community, recorded August 13, 1997, in Book 970813
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16 liens it holds against defendants Jeffrey A. and Dolores M. Martinez, and against a business
17 associated with the couple, Martinez & Associates, Inc. (Nevada Business ID NV20041370692)
18 (“Martinez & Associates I”). The United States also named a second corporation as a defendant,
19 Martinez & Associates, Inc. (Nevada Business ID NV20181033912) (“Martinez & Associates
20 II”). Martinez & Associates II is believed to be a successor to Martinez & Associates I. The tax
21 liabilities at issue are described in more detail in the United States’ Complaint in this matter.
22 (See Dkt. 1 at 9-18). As discussed in the Complaint, the IRS has filed Notices of Federal Tax
23 Liens concerning these liabilities with the Clark County recorder on various dates. (*Id.* at 6-7).

24 3. The United States seeks money judgments against Mr. and Ms. Martinez and their
25 businesses. The government also seeks an order permitting it to foreclose its tax liens against the

1 Subject Property, and to sell the Subject Property to help satisfy the judgment. Pursuant to 26
2 U.S.C. § 7403(b), the government has therefore named as defendants Chase and others who may
3 claim an interest in the property, so that the Court may adjudicate their claims to the property (if
4 any), and determine if and in what order they should receive payments from the sales proceeds, if
5 the United States prevails against Mr. and Ms. Martinez and their business, and obtains an order
6 permitting sale.

7 4. Chase asserts an interest in the Subject Property based on a deed of trust and
8 underlying note that Mr. and Ms. Martinez signed on or around July 27, 2000 (the “Deed of
9 Trust”). In connection with their claim, Chase represents the following:

- 10 a. The initial lender and beneficiary under the Deed of Trust was defendant Sierra
11 Mortgage Corporation. The initial trustee was defendant Fidelity National Title,
12 which has disclaimed any interest in the Subject Property and has been dismissed
13 from the suit. (*See* Dkt. 15).
- 14 b. The Deed of Trust was subsequently assigned to other entities, and, ultimately, to
15 Chase. Chase received the Deed of Trust via an assignment from Flagstar Bank,
16 FSB. The assignment was recorded on May 11, 2001. A copy of the assignment
17 is attached as Exhibit A.
- 18 c. In 2015, Chase determined that there was a gap in the recorded chain of
19 assignments between the initial beneficiary, Sierra Mortgage Corporation, and
20 Flagstar Bank, FSB, the entity that had assigned the Deed of Trust to Chase.
21 After a diligent search and review of the information from the original collateral
22 file, which Chase held in its possession, Chase executed an Affidavit of Missing
23 or Incomplete Assignment indicating that one or more assignments may be
24 missing within that gap. A copy of the affidavit is attached to this stipulation as
25 Exhibit B.

- d. Chase further represents that the loan underlying the Deed of Trust remains outstanding, and that the Deed of Trust remains a valid lien on the Subject Property.

AGREEMENT AS TO LIEN PRIORITY AND OTHER ISSUES

5. In the interests of resolving disputes as to lien priority without unnecessary motions practice, the Stipulating Parties have agreed that if and when the United States obtains a judgment authorizing the foreclosure of its liens and sells the Subject Property, the priority of payment should be as follows:

- a. the sales proceeds should be distributed first to the United States to the extent of its costs and expenses of the sale;
- b. any unencumbered funds remaining should be distributed next to Chase, to satisfy Chase's claims with respect to the Deed of Trust, subject to the caveat that, as discussed below, the United States and Chase have agreed not to seek attorneys' fees and costs against each other; and
- c. any unencumbered funds remaining should be distributed next to the United States, to be applied toward the outstanding federal tax liabilities at issue in the Complaint in this matter.

6. The United States and Chase further agree that they will bear their own litigation costs, including any attorneys' fees, as between them in this matter.

7. This Stipulation does not affect any rights the United States may have under 26 U.S.C. § 7425 (concerning discharge of liens in connection with judicial proceedings in which the United States is not a party, or certain other sales).

8. Chase was named as a defendant under 26 U.S.C. §7403(b). The United States' Complaint does not seek monetary relief against Chase, and at present there are no claims between Chase and the other defendants. Unless otherwise ordered by the Court, or additional

claims are asserted against Chase, the Stipulating Parties do not anticipate that Chase will need to participate in discovery in this case to preserve its rights.

Agreed this 20th day of February, 2020.

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney
General

/s/ E. Carmen Ramirez

E. CARMEN RAMIREZ

Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 683
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Counsel for the United States

/s/ Justin Grim

JUSTIN GRIM

Nevada Bar No. 12588

McCalla Raymer Leibert Pierce, LLP
1635 Village Center Circle, Suite 130
Las Vegas, NV 89134
(702) 425-7267
Justin.Grim@mccalla.com

*Counsel for JP Morgan Chase Bank, N.A. and
Chase Mortgage*

EXHIBIT A

20010511
01174

NEVADA

COUNTY OF CLARK

POOL NO. [REDACTED]

LOAN NO. [REDACTED]

PARCEL NO. 176-08-310-113



Assignment-Interv.-Recorded

PREPARED BY SECURITY
CONNECTIONS, INC.
WHEN RECORDED MAIL TO:
Security Connections, Inc.
620 S. Woodruff Ave.
ATTN: KARLEEN MAUGHAN
Idaho Falls, ID 83401

(2)

CORPORATE ASSIGNMENT OF DEED OF TRUST

FOR VALUE RECEIVED, FLAGSTAR BANK, FSB A FEDERALLY CHARTERED SAVINGS BANK

located at 5151 CORPORATE DRIVE, M/S-W540-3, TROY, MI 48098

hereby grants, assigns, and transfers to CHASE MORTGAGE COMPANY, AN OHIO CORPORATION

located at 3415 VISION DRIVE, COLUMBUS, OH 43219

all beneficial interest under that certain Deed of Trust dated JULY 27, 2000

executed by JEFFERY MARTINEZ & DOLORES M. MARTINEZ, HUSBAND AND WIFE AS JOINT TENANTS

to FIDELITY NATIONAL TITLE

Trustor,

and recorded as Instrument No. 01663

on JULY 31, 2000

Trustee,

in book 20000731, page _____, of Official Records in the County Recorder's
office of CLARK County, Nevada, describing land therein as:

AS DESCRIBED ON SAID DEED OF TRUST REFERRED TO HEREIN.

TOGETHER with the note or notes therein described or referred to, the money due and to become due thereon with interest, and all rights accrued or to accrue under said Deed of Trust.



Loan to

(NMRI.NV)

C=S.278.0003

P=S.001.892

Page 1 of 2

J=FS887A.S.00892

20010511
01174

LOAN NO. [REDACTED]

Dated: APRIL 18, 2001, But effective MARCH 16, 2001.

FLAGSTAR BANK, FSB A FEDERALLY CHARTERED SAVINGS BANK
 FORMERLY KNOWN AS FIRST SECURITY SAVINGS BANK,
 FSB A FEDERALLY CHARTERED SAVINGS BANK

By [Signature]
 M.L. MARCUM
 VICE PRESIDENT

By [Signature]
 CAROLYN BROWN
 SECRETARY

STATE OF IDAHO)
) ss
 COUNTY OF BINGHAM)

On APRIL 18, 2001, before me, the undersigned, personally appeared
M.L. MARCUM known to me to be the person who executed
 the within instrument as the VICE PRESIDENT, and
CAROLYN BROWN known to me to be the person who executed
 the within instrument as the SECRETARY
 of the Corporation that executed the within instrument and acknowledged to me that the
 Corporation executed the within instrument pursuant to its by-laws or a resolution of
 its board of directors.

WITNESS my hand and official seal.

JOAN COOK
 NOTARY PUBLIC
 STATE OF IDAHO

[Signature]
 JOAN COOK (COMMISSION EXP. 02-16-07)
 NOTARY PUBLIC

THIS SPACE PROVIDED FOR RECORDER'S USE

RECORDING REQUESTED BY:
 FLAGSTAR BANK, FSB A FEDERALLY
 CHARTERED SAVINGS BANK
 5151 CORPORATE DRIVE, M/S-W540-3
 TROY, MI 48098

(NMRI.NV.2)
 C=S.278.0003
 P=S.001.892

Page 2 of 2

J=FS887A.S.00892

CLARK COUNTY, NEVADA
 JUDITH A. VANDEVER, RECORDER
 RECORDED AT REQUEST OF:

FLAGSTAR BANK FSB

05-11-2001 13:52 JYB 2

OFFICIAL RECORDS

BOOK: 20010511 INST: 01174

FEE: 8.00 RPPT: .00

EXHIBIT B

The undersigned does hereby affirm that this document submitted for recording does not contain personal information about any person.

Parcel #: 176-08-310-113
When Recorded Mail To:
JPMorgan Chase Bank, NA
2100 Alt. 19 North
Palm Harbor, FL 34683

STATE OF LOUISIANA §
 §
PARISH OF OUACHITA §

Loan #: [REDACTED]
Borrower's Name: JEFFERY MARTINEZ
AND DOLORES M MARTINEZ

AFFIDAVIT OF MISSING OR INCOMPLETE ASSIGNMENT

Regarding this instrument, contact JPMORGAN CHASE BANK, N.A., 780 Kansas Lane, Suite A, Monroe, LA 71203, telephone # (866) 756-8747, which is responsible for receiving payments.

I, Toni C Boland, the undersigned, being duly sworn, state as follows:
1. I am a/an **VICE PRESIDENT** of **JPMORGAN CHASE BANK, NATIONAL ASSOCIATION** ("Chase"). Chase is the servicer of the loan described herein and has in its possession the collateral documents described below. I make this affidavit based upon my review of Chase's records concerning the loan described below and publicly available information.
2. A Note dated 07/27/2000, in the original principal amount of \$252,700.00, a copy of which is attached, was secured by a security instrument in favor of **SIERRA MORTGAGE CORPORATION**, executed by **JEFFERY MARTINEZ AND DOLORES M MARTINEZ**, and recorded in the land records of CLARK County, State of NV in Book 20000731, Page n/a and Instrument # 01663 (the "Security Instrument"). The loan has subsequently been transferred.
Property is more commonly known as: 262 CLIFF VALLEY DRIVE, LAS VEGAS, NV 89113.
3. Chase has in its possession the original collateral file for the loan in a secure vault facility in Monroe, Louisiana. I have conducted a diligent search concerning this loan, including reviewing the note and security instrument, Chase's business records of the contents of the collateral file, a title report and, to the extent available, information from the County concerning this loan.
4. Attached hereto as Attachment 2 is a list of all documents of record relating to this Security Instrument that I have identified based on this review.
5. Based on the diligent search described above, it appears there is a gap in the chain of assignments of the Security Instrument between **SIERRA MORTGAGE CORPORATION** and **FLAGSTAR BANK, FSB FKA FIRST SECURITY SAVINGS BANK FSB**. One or more assignments may be missing within this gap. I have concluded that such assignment(s) either were never completed or, if completed, were never recorded. After a good faith attempt, I have concluded such assignment(s) cannot now be obtained.

PAGE 1

JPCAS [REDACTED] -- CHASE [REDACTED] [PREP-4] LAANVX1_JPC
LAA-093012v3



Loan #: [REDACTED]
Borrower's Name: JEFFERY MARTINEZ
AND DOLORES M MARTINEZ

Dated on 02/19/2015 (MM/DD/YYYY)
JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

By: [Signature]
Toni C Boland
VICE PRESIDENT

Subscribed and sworn to before me on
02/19/2015 (MM/DD/YYYY), by
Toni C Boland

[Signature]
Eva Reese, Notary Public

EVA REESE
OUACHITA PARISH, LOUISIANA
LIFETIME COMMISSION
NOTARY ID # 17070

Notary Public - State of LOUISIANA
Commission expires: LIFETIME

Personally Known ✓
OR Produced Identification N/A

Type of Identification Produced: N/A

Document Prepared By: Toni C Boland, JPMorgan Chase Bank, N.A., 780 Kansas Lane,
Suite A, Monroe, LA, 712030, 800-401-6587

PAGE 2

JPCAS [REDACTED] - CHASE [REDACTED] [PREP-4] LAANVX1_JPC
LAA-093012v3



Loan # [REDACTED]
Borrower's Name: JEFFERY MARTINEZ
AND DOLORES M MARTINEZ

Attachment 1
(Copy of Note)

LAA-093012v3



NOTE

July 27, 2000
[Date]Las Vegas
[City]Nevada
[State]262 Cliff Valley Drive, Las Vegas, NV 89113
[Property Address]**1. BORROWER'S PROMISE TO PAY**

In return for a loan that I have received, I promise to pay U.S. \$ 252,700.00 *** (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is SIERRA MORTGAGE CORPORATION

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at a yearly rate of 8.625 %.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS**(A) Time and Place of Payments**

I will pay principal and interest by making payments every month.

I will make my monthly payments on the 1st day of each month beginning on September 1, 2000. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. My monthly payments will be applied to interest before principal. If, on August 1, 2030, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 5788 North Mesa Street, El Paso, TX 79912 or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 1,965.48 ***

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment." When I make a prepayment, I will tell the Note Holder in writing that I am doing so.

I may make a full prepayment or partial prepayments without paying any prepayment charge. The Note Holder will use all of my prepayments to reduce the amount of principal that I owe under this Note. If I make a partial prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED**(A) Late Charge for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

MULTISTATE FIXED RATE NOTE - Single Family - FNMA/FHLMC Uniform Instrument

VMP -5R (9106).04

Form 3200 12/83
Amended 5/91

VMP MORTGAGE FORMS - (800)521-7291

Page 1 of 2

Initials: *Jim Om*



(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is delivered or mailed to me.

(D) No Waiver by Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.


10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person), without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
|  _____ (Seal) JEFFERY MARTINEZ -Borrower SSN: _____ | _____ (Seal) -Borrower SSN: _____ |
| _____ (Seal) -Borrower SSN: _____ | _____ (Seal) -Borrower SSN: _____ |

[Sign Original Only]

PAY TO THE ORDER OF Flagstar Bank, FSB

WITHOUT RECOURSE

SIERRA MORTGAGE CORPORATION

By: Rachel Beissel-Schepker

Printed Name: Rachel Beissel-Schepker

Title: Loan closer

PAY TO THE ORDER OF
WITHOUT RECOURSE
FLAGSTON, DAKOTA
BY Sam H. Hume
COUNSELLOR AT LAW
BY John A. Hume
COUNSELLOR AT LAW